

MDR Tracking Number: M5-04-1151-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on 12-19-03.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$460** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20 days to the date the order was deemed received as outlined on page one of this order.

In accordance with Rule 133.307 (d), requests for medical dispute resolution are considered timely if it is filed with the division no later than one (1) year after the date(s) of service in dispute. The Commission received the medical dispute resolution request on 12/19/03, therefore the following dates of service are not timely: 10/30/02 – 12/18/02.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was the only issue** to be resolved. The neuromuscular re-education, joint mobilization, myofascial release, therapeutic exercises, and office visits were found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

This Findings and Decision is hereby issued this 18<sup>th</sup> day of March 2004.

Regina L. Cleave  
Medical Dispute Resolution Officer  
Medical Review Division

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Order is applicable to dates of service 12/20/02 through 12/30/02 in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Decision and Order is hereby issued this 18<sup>th</sup> day of March 2004.

Roy Lewis, Supervisor  
Medical Dispute Resolution  
Medical Review Division  
RL/r/c

March 15, 2004

**NOTICE OF INDEPENDENT REVIEW DECISION  
Corrected Letter**

**RE: MDR Tracking #: M5-04-1151-01**

\_\_\_ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). \_\_\_ IRO Certificate Number is 5348. Texas Worker's Compensation Commission (TWCC) Rule §133.308 allows for a claimant or provider to request an independent review of a Carrier's adverse medical necessity determination. TWCC assigned the above-reference case to \_\_\_ for independent review in accordance with this Rule.

\_\_\_ has performed an independent review of the proposed care to determine whether or not the adverse determination was appropriate. Relevant medical records, documentation provided by the parties referenced above and other documentation and written information submitted regarding this appeal was reviewed during the performance of this independent review.

This case was reviewed by a practicing chiropractor on the \_\_\_ external review panel. The reviewer has met the requirements for the ADL of TWCC or has been approved as an exception to the ADL requirement. The \_\_\_ chiropractor reviewer signed a statement certifying that no known conflicts of interest exist between this chiropractor and any of the treating physicians or providers or any of the physicians or providers who reviewed this case for a determination prior to the referral to \_\_\_ for independent review. In addition, the \_\_\_ chiropractor reviewer certified that the review was performed without bias for or against any party in this case.

Clinical History

This case concerns a male who sustained a work related injury on \_\_\_. The patient reported that while at work, he was loading heavy metal when he experienced a sudden popping sensation in his neck and right shoulder. On 9/18/02 the patient was evaluated by a chiropractor and began passive treatment that included electrical muscle stimulation, ultrasound, hot/cold packs, neuromuscular reeducation, myofascial release, desensitization and active and passive range of motion. The patient underwent an MRI of the cervical spine and right shoulder on 10/2/02. The cervical spine MRI indicated a 2mm central disc herniation at C3-C4, a 3mm disc herniation from C4-C5 and C5-C6, and central spinal stenosis at C4-C5 and C5-C6. The right shoulder MRI showed a tear of the supraspinatus tendon and fluid in the glenohumeral joint and subacromial bursa. On 10/15/02 the patient underwent an orthopedic evaluation and was diagnosed with multi level cervical nucleus pulposus, right shoulder impingement, and right rotator cuff tear. The patient was also given an injection to the right shoulder and instructed to continue with an aggressive active rehabilitation program. On 12/2/02 the patient was reevaluated by his orthopedic surgeon and was instructed to continue with the aggressive active rehabilitation. The patient has also undergone a cervical discogram and was evaluated by neurosurgery and an interventional pain specialist.

Requested Services

Neuromuscular reeducation, joint mobilization, myofascial release, therapeutic exercise, and office visit 15 min from 12/20/02 through 12/30/02.

Decision

The Carrier's determination that these services were not medically necessary for the treatment of this patient's condition is overturned.

#### Rationale/Basis for Decision

The \_\_\_\_ chiropractor reviewer noted that this case concerns a male who sustained a work related injury to his neck and right shoulder on \_\_\_\_\_. The \_\_\_\_ chiropractor reviewer indicated that the patient sustained a disc injury and rotator cuff injury at the same time making treatment more difficult and could take longer when dealing with multiple areas of trauma. The \_\_\_\_ chiropractor reviewer noted that the patient made steady documented progress prior to 12/20/02 and continued to make progress after 12/30/02. The \_\_\_\_ chiropractor reviewer explained that the patient's care during that time was reasonably related and medically necessary. The \_\_\_\_ chiropractor reviewer noted that the patient was referred out and treated in a multidisciplinary setting that was appropriate. The \_\_\_\_ chiropractor reviewer noted that the patient showed the best response to the shoulder treatment and still had cervical and thoracic spine issues that were being addressed. The \_\_\_\_ chiropractor reviewer explained that the care during this time in question is appropriate in this patient's complicated case. Therefore, the \_\_\_\_ chiropractor consultant concluded neuromuscular reeducation, joint mobilization, myofascial release, therapeutic exercise, and office visit 15 min from 12/20/02 through 12/30/02 were medically necessary to treat this patient's condition.